

RECOMMENDATION TO THE PROFESSIONALISM COMMISSION
FROM THE SUBCOMMITTEE ON DISCOVERY ABUSE,
INCLUDING THE USE OF DISCOVERY MASTERS

The Professionalism Commission has reviewed the findings of the Professionalism Task Force and has also confirmed through its own investigation the outstanding problem of discovery abuse in civil cases. As a result, the Commission requests that the Court of Appeals acknowledge the problem by adopting the following recommendations:

1. The MSBA to revise and expand the *Maryland Discovery Guidelines* and submit the revised Guidelines to the Rules Committee for adoption by the Court.
2. Expansion of the Maryland Judiciary web site to include discovery opinions from trial courts and special masters discovery opinions that have been adopted by trial courts, in the same manner that the site now publishes opinions from the trial courts in the business and technology case management system;
3. The Rules Committee expand and annotate the standard discovery forms now found in the Appendix to the Maryland Rules, and add to the Rules that the standard forms are presumptively proper.
4. The Conference of Circuit Court Judges to formulate a uniform discovery protocol, designed to see that discovery is completed and issues resolved in a timely fashion. The protocol should include:
 - A. In each case, a discovery conference scheduled within 30 days of the filing of an answer, the conference to result in a discovery plan and/or scheduling order;
 - B. Resolution of Disputes:
 1. In Baltimore City, Baltimore County, Anne Arundel County, Montgomery County, and Prince George's County, the designation of a specific judge to handle all discovery disputes, including the use of retired judges in this role. The discovery judge would have authority to assign a discovery master as necessary, for first level dispute resolution.
 2. In all other counties, the appointment of a special discovery master or the assignment, as necessary, of a special discovery master to the specific case;

C. Logistics:

1. Consider a change in the Maryland Rules to accomplish the following:

a. Remove the formality required to bring discovery issues to the attention of the Court and to shorten the time to respond when discovery issues are before the Court.

b. Immediate referral to designated Judge or Discovery Master for resolution;

c. Shorten time for resolution by a Judge of exceptions to Discovery Master's recommendations.